



THE CITY OF NEW YORK
LAW DEPARTMENT
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August 24, 2023

BY ECF

Honorable Ona T. Wang
United States Magistrate Judge
United States District Court
500 Pearl Street
New York, NY 10007

MEMO ENDORSED.

Re: *Rodney, Patricia v City of New York, et al.*, 22-CV-01445 (LAK) (OTW)

Your Honor:

I am a Senior Counsel in the Office of the Hon. Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, and the attorney assigned to the defense of the above referenced case. In that capacity, I write to respectfully request that the Court grant a brief extension of time with respect to three matters in the above referenced case. To that end, and for the reasons set forth below, it is respectfully requested that the Court grant the following extensions:

1. Defendants' Reply in Further Support of Defendants' Motion to Dismiss the Amended Complaint, from August 25, 2023 to September 5, 2023;
2. Defendants' Response to Plaintiff's August 23, 2023 Motion to Compel, from August 28, 2023 to September 5, 2023; and
3. Defendants' Pelly Casamir, Ernest Hernandez, John Ramos, Robert Mui, Andrew Cusamano, Steven Vitelli, and Michael Oggeri Response to the Amended Complaint, from August 28, 2023 to September 8, 2023.

This request is the first of its kind for the first two matters and the second such request for the Court to *sua sponte* extend the time for purported Defendants Pelly Casamir, Ernest Hernandez, John Ramos, Robert Mui, Andrew Cusamano, Steven Vitelli, and Michael Oggeri to respond to the Amended Complaint.¹ Plaintiff's counsel, Remy Green, consents to these requests with the

¹ Defense continues to investigate whether the listed purported Defendants were properly served.

exception of Defendants' request for additional time to respond to Plaintiff's motion to compel. With respect to Defendants' request for additional time to respond to the motion to compel, Plaintiff consents to an extension until August 31, 2023.

There are several reasons for this request. First, the undersigned is newly transferred to this matter, formally assigned on August 8, 2023. As the Court is aware, there are several complex issues that are converging at the same or similar times in this case. For example, Defendants' reply in further support of their motion to dismiss, which was originally filed by the previously assigned attorney, and was opposed by plaintiff just last week on August 18th, is currently due tomorrow. Accordingly, in order to properly familiarize myself with all of the issues and ensure that Defendants' reply is sufficiently prepared, it is necessary for me to have additional time to prepare such filing.

Additionally, as Your Honor may be aware, yesterday Plaintiff's counsel filed a 10-page motion to compel discovery—discovery which was engaged in prior to my assignment to this matter. It should be noted that Plaintiff's motion to compel includes 10 single-spaced pages of argument-- seven (7) pages more than is permitted by Your Honor's Individual Rules. Again, because of my recent assignment to this case, the undersigned requires additional time to prepare Defendants' response.

Finally, with respect to the request for additional time for the newly added Defendants to file their response to the Amended Complaint, the requested time is needed to complete the representation interviews of such individuals. Unfortunately, by the time I was assigned the case, representation of those individuals was not fully resolved and therefore, those individuals will not be able to respond by the current deadline of August 28, 2023.

The undersigned would like to assure the Court that he is diligently working on familiarizing himself with all of these issues in this matter, however, needs additional time to do so given the number of issues here as well as additional pressing deadlines in another matter which required significant attention. The undersigned sincerely apologizes for the circumstances.

As noted above, the undersigned communicated with Plaintiff's counsel over email regarding the instant extension requests. Counsel consented to the extension for the first and third matters listed above, but declined to consent to Defendants' request for an extension until September 5, 2023 to respond to Plaintiff's motion to compel. Counsel, however, did consent to an extension until August 31, 2023 and requested that the following be included in this application:

From Plaintiff Counsel:

Plaintiff offered to consent to an extension until August 31. Defendants informed Plaintiff they wanted more time than that because (counsel said), "I am still reviewing the case from previous counsel and the positions taken in the defendant's responses and objections to interrogatories and document requests. Additionally, I have had several deadlines recently that have prevented my full review of the case materials."

But Defendants have known the issues with their responses since July 13, and were not even prepared to discuss the example offered in a July 13 email at either August meet and

confer. Sometime in July, Defendants made a decision to restaff this case and specifically promised at the time to keep the prior attorney involved in this process to avoid prejudice -- and then refused to honor that promise. Defendants also promised to be prepared (multiple times) to discuss the issues raised in the motion starting in July. And the issues were all spelled out at length in a 13 page single space letter Defendants have had since July 18 (not to mention the detailed email on July 13). Having known substitution was taking place since early July, counsel formally substituted on August 8 -- and even then, from being on a dozen plus email chain through early August, knew this motion was ripe and urgent from the moment he appeared.

For Defendants to claim they are still reviewing their own positions necessarily reflects either (1) a refusal to take this case seriously or (2) an unwillingness to staff it appropriately.

Respectfully submitted,

/s/ Gregory Musso

Gregory Musso
Senior Counsel

cc: **Bv ECF**
To all attorneys of record.

Defendants' request for extensions of the three
deadlines listed above is **GRANTED**.

SO ORDERED.

A handwritten signature in blue ink, appearing to read 'Ona T. Wang', with a large, stylized loop at the end.

Ona T. Wang 8/25/23
U.S.M.J.